

fine the jurisdiction thereof, and to conform to such change the jurisdiction of the county court of Dallas county; fixing the salary of the judge of said court; providing for the appointment and election of the said judges of said court hereby created; providing for the appointment of special judge and filling of vacancies in said office; providing for an official shorthand reporter for said court; providing a saving clause, and declaring an emergency,"

Have carefully compared same and find it correctly engrossed.

WHITAKER, Vice-Chairman.

Committee Room,

Austin, Texas, February 1, 1927.

Hon. Robert Lee Bobbitt, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 150, A bill to be entitled "An Act to amend Article 1036, Title 15, Chapter 1, of Code of Criminal Procedure of the State of Texas of 1925, allowing witness fees and mileage in all out county felony cases in the sum of five cents per mile for each mile traveled going to and from the court or grand jury, and two dollars per day for each day of service by such witnesses in all cases who attend in obedience to any process issued by any grand jury or any court in this State other than county of their residence,"

Have carefully compared same and find it correctly engrossed.

WHITAKER, Vice-Chairman.

Committee Room,

Austin, Texas, February 1, 1927.

Hon. Robert Lee Bobbitt, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 112, A bill to be entitled "An Act to change and prescribe the time for holding the terms of district court in the Thirty-third Judicial District; to make all writs and process issued or served before this act takes effect, including recognizances and bonds, returnable to the terms of court in several counties in said district, as herein fixed; to validate the summoning of grand and petit jurors under the present law so as to render them available under the act; to provide for the continuation of court in session in said district when this act takes effect, to the end of the term; to repeal all laws

and parts of laws in conflict herewith, and providing an emergency,"

Have carefully compared same and find it correctly engrossed.

WHITAKER, Vice-Chairman.

REPORT OF COMMITTEE ON ENROLLED BILLS.

Committee Room,

Austin, Texas, February 1, 1927.

Hon. Robert Lee Bobbitt, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 313, "An Act amending Title 8, Article 199, of the Revised Civil Statutes of the State of Texas, 1925, p. 100, Subdivision 47, third paragraph, by providing for the reorganization of the Forty-seventh Judicial District, naming the counties constituting the same, and creating and organizing the One Hundred and Eighth Judicial District of Texas, and naming the county constituting same; fixing the times and terms of the holding of the district court in the counties of such respective districts; and providing for the appointment of a district judge for the One Hundred and Eighth Judicial District, and making provisions in reference to processes issued, bonds and recognizances made and grand and petit jurors drawn before this act takes effect, and providing for the continuance in office of the judge and district attorney, respectively, for the Forty-seventh Judicial District; also, providing for the jurisdiction of said courts as to civil and criminal business, and fixing the time of taking effect of this act, and repealing all laws in conflict herewith, and declaring an emergency,"

Have carefully compared same and find it correctly enrolled.

MORSE, Chairman.

SEVENTEENTH DAY.

(Continued.)

(Thursday, February 3, 1927.)

The House met at 10 o'clock a. m. and was called to order by Speaker Bobbitt.

HOUSE BILLS ON FIRST READING.

The following House bills, introduced today, were laid before the House, read severally first time, and referred to the appropriate committees as follows:

By Mr. Moursund and Mr. Hall:

H. B. No. 417, A bill to be entitled "An Act to amend Article 4886 of the Revised Civil Statutes of the State of Texas of 1925, by adding thereto power and authority in State Insurance Commission to assess penalties for a bad fire record, as well as to give credit for a good fire record, and declaring an emergency."

Referred to Committee on Insurance.

By Mr. Moursund and Mr. Hall:

H. B. No. 418, A bill to be entitled "An Act to reduce the fire waste of the State and to reduce loss of life from fire in the State; to remove the inducement existing under present laws causing arson and causing wilful burning of property; making it unlawful for any owner of property or any person acting for or on behalf of such owner to knowingly procure a larger amount of insurance against loss from fire than the fair reasonable value of the subject of the insurance; making it unlawful for any agent selling fire insurance contracts to grant or permit knowingly a greater amount of insurance against loss by fire than the fair reasonable amount of the loss sustained; to repeal Article 4929 of the Revised Civil Statutes of Texas of 1925, and declaring an emergency."

Referred to Committee on Insurance.

By Mr. Moursund:

H. B. No. 419, A bill to be entitled "An Act to repeal Article 4891 of the Revised Civil Statutes of Texas of 1925, and declaring an emergency."

Referred to Committee on Insurance.

By Mr. Moursund (by request):

H. B. No. 420, A bill to be entitled "An Act creating the Board of Insurance Commissioners providing for the appointment of the members, terms of office and their duties; repealing conflicting statutes, and declaring an emergency."

Referred to Committee on Insurance.

By Mr. Smith of Atascosa:

H. B. No. 421, A bill to be entitled "An Act to amend Chapter 65 of the Local and Special Laws enacted by the First Called Session of the Thirty-ninth Legislature of the State of Texas, known as House bill No. 202, creating Road District No. 4 in Atascosa county, Texas, and validating certain district road bonds of said road district and proceedings had with respect to their issue, so as to repeal Section 3b of said

Special Act, legalizing, approving and validating the proposition of issuing district road bonds of said road district in the sum of four hundred and fifty thousand dollars (\$450,000) and certain orders and proceedings recited to have been had with respect thereto; declaring intention to in nowise affect any other provisions of said special and local law; evidencing proof of publication of constitutional notice required in such acts, and declaring an emergency."

Referred to Committee on Highways and Motor Traffic.

By Mr. Brown:

H. B. No. 422, A bill to be entitled "An Act providing for the collection and publishing of information, statistics and data relating to agriculture, horticulture, livestock, poultry, manufacturing and other industries and enterprises; requiring the tax assessor of each county to take certain statistics as herein provided; requiring the Commissioner of Agriculture to tabulate and distribute statistics and information relating to agriculture, horticulture, livestock, poultry, manufacturing and other industries and enterprises; providing additional compensation to assessors for taking said statistics and data; providing that the information given herein shall not be used as a basis for taxation; prescribing penalties; repealing certain articles and all laws in conflict herewith, and declaring an emergency."

Referred to Committee on Agriculture.

By Mr. Brown:

H. B. No. 423, A bill to be entitled "An Act relating to public lands and amending Articles 5338 and 5310 of the Revised Civil Statutes of 1925, the former so as to include unsurveyed public school, university and asylum lands, as well as all lands sold in which the State owns the minerals, continuing in force all unexpired permits and leases thereon, and recognizing all applications now on file affecting said lands and estates therein; and the latter so as to include the lands, shall be sold with the reservation of the oil, gas, coal and all other minerals known or unknown that may be therein, to the fund to which the land belongs and all applications shall so state; and repealing all laws and parts of laws in conflict therewith, and declaring an emergency."

Referred to Committee on Public Lands and Buildings.

By Mr. Williams of Travis:

H. B. No. 424, A bill to be entitled "An Act excluding from the area of land authorized to be purchased or condemned by the Board of Regents of the University of Texas by an act of the Regular Session of the Thirty-seventh Legislature of the State of Texas, Chapter 137 of the General Laws, the following described property to-wit: Lots Nos. Sixteen (16), Seventeen (17) and Eighteen (18) in Outlot No. Eight (8), Division "D," Austin, Travis county, Texas, and instructing the Attorney General of the State of Texas to dismiss condemnation proceedings now pending in the county court of Travis county, Texas, instituted for the purpose of forcibly acquiring same, and declaring an emergency."

Referred to Judiciary Committee.

By Mr. Purl:

H. B. No. 425, A bill to be entitled "An Act to validate all instruments affecting the title to land in this State, executed by any person who is a minor under the laws of this State but of lawful age under the laws of the State of such person's residence; declaring a certificate of such fact by the presiding judge and clerk of a court of record of the State where such person resides to be conclusive evidence that such person is of lawful age at the time of the execution of any instrument affecting the title to land in this State, and declaring an emergency."

Referred to Judiciary Committee.

By Mr. Rowell and Mr. Woodall:

H. B. No. 426, A bill to be entitled "An Act to provide for and regulate the method of taking or catching fish in the public fresh waters of Marion and Harrison counties, State of Texas; providing penalties for violation, and declaring an emergency."

Referred to Committee on Game and Fisheries.

By Mr. McCombs:

H. B. No. 427, A bill to be entitled "An Act relating to the appropriation of water, amending Section 16, Chapter 88, Acts of the Regular Session of the Thirty-fifth Legislature, and Section 5, Chapter 136, Acts of the Regular Session of the Thirty-ninth Legislature, providing that any one may construct on his own property a dam or reservoir to contain not to exceed five hundred acre feet of water, that he may use same for do-

mestic purposes and for irrigation without securing a permit therefor; providing that the owner of any land on which there is a natural lake or reservoir, or on which there is a portion of a natural lake or reservoir, shall have the right to use the waters therefrom in any quantities for domestic purposes and for irrigation without securing a permit therefor; repealing all laws in conflict herewith, and declaring an emergency."

Referred to Committee on Conservation and Reclamation.

By Mr. Masterson:

H. B. No. 428, A bill to be entitled "An Act amending Section 8, Chapter 119, Acts of the Thirty-second Legislature, as several times amended, now being the law as enacted by the Third Called Session of the Thirty-sixth Legislature, being Chapter 47, relating to official shorthand reporters and amending Section 8, Chapter 202, of the Regular Session of the Thirty-ninth Legislature; an act to amend Section 8, Chapter 119, of the General Laws of the State of Texas, Thirty-second Legislature of the State passed by the Regular Session of the Thirty-second Legislature of the State of Texas, 1911, and as amended by Chapter 189 of the Regular Session of the Thirty-fifth Legislature, 1917, and as amended by Chapter 27 of the First Called Session of the Thirty-fifth Legislature, 1917, and as amended by Chapter 79 of the Fourth Called Session of the Thirty-fifth Legislature, 1918, and as amended by Chapter 111 of the Regular Session of the Thirty-sixth Legislature, 1919, as amended by Chapter 47 of the Third Called Session of the Thirty-sixth Legislature, 1920, and as amended by Chapter 202 of the Regular Session of the Thirty-ninth Legislature, 1925, relating to official shorthand reporters' compensation in certain counties and districts in this State; and to provide for deputy shorthand reporters; to provide methods of preparing transcript of evidence, and to provide for official shorthand reporters for special terms of court held in the same district, and for cases tried by special judges concurrently with regular terms of court, and to provide for their compensation; repealing all laws and parts of laws in conflict with said section of said chapter herein amended, and declaring an emergency."

Referred to Judiciary Committee.

By Mr. McCombs:

H. B. No. 429, A bill to be entitled

"An Act regulating the practice of public shorthand reporting; creating an examining board, defining its powers, providing for fees and their disbursements and for examinations; prescribing when examinations shall be waived; prescribing qualifications of certified shorthand reporters; providing for removal, etc.; prescribing when transcript of testimony shall be competent evidence; and providing penalty for violations of this act, with a repealing clause."

Referred to Committee on State Affairs.

By Mr. Tillotson:

H. B. No. 430, A bill to be entitled "An Act to amend Article 1302, Revised Civil Statutes of 1925, which article provides for the manner of issuing charters by the State to private corporations, and which amendment provides that private corporations may be formed under general law for all purposes not in contravention of the Constitution of Texas or the United States, or inconsistent with provisions of general law or the public policy of the State; providing corporations shall have all powers necessary to purposes for which created; declaring that all charters issued to private corporations heretofore are effective for the purposes for which created; providing that charters be recorded in the records in the principal office of the corporation, and requiring that such charters shall be recorded in the county records of the principal office of the corporations and in each county in which a branch of it is maintained; and declaring that this act shall become effective July 1, 1927."

Referred to Committee on Municipal and Private Corporations.

By Mr. Farrar:

H. B. No. 431, A bill to be entitled "An Act making it unlawful for any person to catch minnows in any manner for bait for the purpose of sale out of any creek, bayou, pool, pond, branch or any other of the fresh waters of this State, other than navigable rivers, without first having obtained the written consent of the owner of the land upon which such creek, bayou, pool, pond, branch or other fresh waters are located; and providing further that it shall be unlawful for any person to transport from one county into another county, for the purpose of sale, any minnows so unlawfully caught; and providing that the possessor

of more than two hundred minnows in transit, in one or more containers, other than gold fish or other minnows not indigenous to the fresh waters of this State, shall be prima facie evidence that such minnows are being transported for the purpose of sale; providing that a violation of the provisions of this act shall be a misdemeanor, punishable by fine not exceeding two hundred dollars, and declaring an emergency."

Referred to Committee on Game and Fisheries.

By Mr. Rawlins:

H. B. No. 432, A bill to be entitled "An Act providing that any existing domestic assessment company or association or fraternal beneficiary society may be transformed and re-incorporated as a legal reserve or level stock premium company, and providing method of procedure and conditions of such re-incorporation, and declaring an emergency."

Referred to Committee on Insurance.

By Mr. Petsch:

H. B. No. 433, A bill to be entitled "An Act appropriating the sum of \$36,000, or as much thereof as may be necessary, for the compensation and expenses of the commissioner appointed by the Supreme Court of the United States under decree of January 3, 1927, in Cause No. 6, Original, October Term, 1926, styled the State of Oklahoma, Complainants, vs. the State of Texas, Defendant, the United States of America, Intervener, to run the boundary line between the State of Texas and the State of Oklahoma, and declaring an emergency."

Referred to Committee on Appropriations.

COMMITTEE AMENDMENT ORDERED PRINTED.

On motion of Mr. Harman, the committee substitute to House bill No. 9 was ordered printed instead of the original bill.

PROVIDING FOR A COMMITTEE TO INVESTIGATE BRIBERY CHARGES.

Mr. Sinks offered the following resolution:

Whereas, Complaints have been filed in justice court, precinct No. 1, of Travis county, Texas, charging that F. A. Dale and H. H. Moore, members of the House of Representatives of the

Fortieth Legislature of Texas, have violated the law of the State of Texas by accepting a bribe, and which charge, if true, also constitutes a gross violation of the rules of the House of Representatives and the propriety of its members; and

Whereas, Said complaints were filed by Captain Tom Hickman and Captain Frank Hamer, of the ranger force of Texas, whose standing and reputation as peace officers is such as to command the respect and consideration of members of the Legislature and the people of Texas; and

Whereas, The House of Representatives desires to and must maintain its honor and integrity, as well as the interest and welfare of the people of Texas; and

Whereas, A full, fair and complete investigation should be made by the House of Representatives relating to said charges, to the end that the facts and truth may be known, and proper action taken with respect thereto; therefore, be it

Resolved by the House of Representatives:

Section 1. That a committee of nine members of the House of Representatives be appointed by the Speaker from its members, whose duty it shall be to conduct a prompt and full investigation of the charges so made against the said F. A. Dale and H. H. Moore, and report its findings at the earliest practicable time to the House of Representatives, together with its recommendations in connection therewith.

Sec. 2. That said committee shall have power to formulate its own rules of procedure and evidence, and provide for its own hours of meeting and adjournment.

Sec. 3. That the said committee shall have power to issue process for witnesses to any place in this State, and to compel their attendance, and the production of books and records; that upon the disobedience of any subpoena, said committee shall have power to issue attachments which may be addressed to and served by either the sergeant-at-arms appointed by said committee, or any sheriff or constable of this State.

Sec. 4. That witnesses attending the session of said committee, under process shall be allowed the same mileage and per diem as is allowed witnesses in the trial of criminal cases in the district court.

Sec. 5. That said committee shall have power and authority to employ and compensate all necessary investigators,

attorneys, stenographers, and all other necessary employes, and it shall be the duty of said committee to make and keep a record of its findings.

Sec. 6. That all necessary expense incident to such investigation shall be paid out of the appropriation for mileage and per diem and contingent expense of the Fortieth Legislature, upon the sworn account of persons entitled to such pay, when approved by the chairman of said committee.

Signed—Sinks, Fly, Veatch, Teer, Shaver, Montgomery, Rawlins, Petsch.

The resolution was read second time and was adopted.

COMMENDING GOVERNOR MOODY FOR HIS SELECTION OF THE NEW HIGHWAY COM- MISSION.

Mr. Petsch offered the following resolution:

Whereas, By virtue of the conditions of Texas politics today, the future existence of the State Highway Department is in serious danger; and

Whereas, This is one of the most important departments of our State government and the maintenance of its existence is most essential to the development of resources of this State; and

Whereas, Out of the greatest responsibilities, on account of aforesaid conditions, resting upon the Executive of this State, was the appointment of a Highway Commission commanding the respect and re-establishing the confidence of the citizenship of Texas in this important commission; and

Whereas, In the appointment of Commissioners Sterling, Johnson and Ely, the Executive of this State has met his responsibility most excellently; and

Whereas, The acceptance of the office on the part of each commissioner represents a sacrifice of personal business affairs on their part, and constitutes within itself an affirmative promise to perform real patriotic service; and

Whereas, The Senate has already affirmed its implicit confidence in the new Highway Commission by virtue of prompt and unanimous confirmation; and

Whereas, It is fitting that this important body receive an expression of justly earned confidence and appreciation from this, the other branch of the Legislative Department of this government; therefore, be it

Resolved, That the House of Representatives, by the passage of this resolution, express its appreciation of the

good judgment of our Chief Executive and of the individual sacrifices made by each member of said commission in accepting their positions; and be it further

Resolved, That the House of Representatives pledge their unselfish support to this newly created Highway Commission of Texas.

The resolution was read second time.

On motion of Mr. Pool, the resolution was adopted.

BILL ORDERED PRINTED.

Mr. Jacks moved that the committee substitute to House bill No. 254, reported adversely with a minority favorable report, be printed.

Mr. DeBerry moved the previous question on the motion to print the bill and the motion was duly seconded.

Question recurring on the motion for the main question, yeas and nays were demanded.

The main question was ordered by the following vote:

Yeas—119.

Mr. Speaker.	Hall.
Albritton.	Harding.
Alexander.	Harman.
Anderson.	Hefley.
Avis.	High.
Bass.	Holland.
Bateman.	Hornaday.
Beck.	Jacks.
Bird.	Johnson.
Black.	Jones.
Boggs.	Justice.
Boon.	Kemble.
Branch.	Kennedy.
Brown.	Kincaid.
Conway.	King of Hopkins.
Cornwell.	Kirkland.
Cummings.	Land.
Daniel.	Loflin.
Davis.	Long.
DeBerry.	Loy.
Denman.	Masterson.
Dunlap.	McCombs.
Duvall.	McGill.
Enderby.	McKean.
Eickenroht.	Merritt.
Farrar.	Minor.
Faulk.	Montgomery.
Finlay.	Morse.
Forbes.	Moursund.
Foster.	Murphy.
Fuchs.	Nabors.
Gates.	Nicholson.
Gibson.	Olsen.
Gilbert.	Pavlica.
Graves.	Petsch.
Gray.	Pool.
Hagaman.	Pope.

Porter.	Swain.
Purl.	Taylor.
Ramsey.	Teer.
Rawlins.	Turner.
Rogers of Hays.	Van Zandt.
Rogers of Shelby.	Veatch.
Rowell.	Waddell.
Sanders.	Walker.
Satterwhite.	Wallace
Shaver.	of Freestone.
Shearer.	Wallace of Panola.
Sheats.	Wallace of Smith.
Shirley.	Ware.
Simmons.	Wassell.
Sinks.	Webb.
Smith of Atascosa.	Wells.
Smith of El Paso.	Whitaker.
Smith of Nueces.	Williams
Smith of Smith.	of Sabine.
Snelgrove.	Williams
Stell.	of Travis.
Stevenson.	Woodall.
Storey.	Woodruff.
Stout.	Young.
Sutton.	

Absent.

Acker.	Moore.
Barnett.	Parish of Runnels.
Barron.	Parrish of Travis.
Cox.	Poage.
Dale.	Renfro
Dielmann.	of Angelina.
Durham.	Renfro of Mills.
Fly.	Runge.
Holder.	Smyth.
Kayton.	Williamson.
Lipscomb.	

Absent—Excused.

Bonham.	Kirby.
Kenyon.	Pearce.
King of	Powell.
Throckmorton.	Reagan.
Kinnear.	Tillotson.

Question then recurring on the motion to print the bill, yeas and nays were demanded.

The motion to print the committee substitute to House bill No. 254 prevailed by the following vote:

Yeas—81.

Acker.	Daniel.
Alexander.	Davis.
Barnett.	DeBerry.
Bass.	Denman.
Beck.	Dunlap.
Bird.	Enderby.
Black.	Faulk.
Boggs.	Forbes.
Boon.	Fuchs.
Branch.	Gibson.
Conway.	Gilbert.
Cummings.	Graves.

Harding.	Rogers of Shelby.
Harman.	Rowell.
Hornaday.	Sanders.
Jacks.	Satterwhite.
Johnson.	Shaver.
Jones.	Sheats.
Kennedy.	Shirley.
King of Hopkins.	Simmons.
Kirkland.	Sinks.
Land.	Smith of El Paso.
Lipscomb.	Smith of Nueces.
Loftin.	Smith of Smith.
Masterson.	Smyth.
McCombs.	Snelgrove.
McGill.	Stell.
Merritt.	Stevenson.
Minor.	Storey.
Montgomery.	Swain.
Morse.	Teer.
Murphy.	Van Zandt.
Nabors.	Veatch.
Olsen.	Wallace of Smith.
Pavlica.	Ware.
Pool.	Wassell.
Pope.	Webb.
Purl.	Williams
Ramsey.	of Sabine.
Rawlins.	Woodall.
Renfro	Woodruff.
of Angelina.	Young.

Nays—38.

Albritton.	Loy.
Anderson.	McKean.
Bateman.	Moursund.
Brown.	Nicholson.
Cornwell.	Petsch.
Duvall.	Rogers of Hays.
Farrar.	Shearer.
Finlay.	Smith of Atascosa.
Foster.	Stout.
Gates.	Sutton.
Gray.	Taylor.
Hagaman.	Turner.
Hall.	Waddell.
Hefey.	Walker.
High.	Wallace
Holland.	of Freestone.
Justice.	Wallace of Panola.
Kemble.	Whitaker.
Kincaid.	Williams
King of	of Travis.
Throckmorton.	

Present—Not Voting.

Avis.	Long.
Eickenroht.	

Absent.

Barron.	Kayton.
Cox.	Moore.
Dale.	Parish of Runnels.
Dielmann.	Parrish of Travis.
Durham.	Poage.
Fly.	Porter.
Holder.	Renfro of Mills.

Runge.	Williamson.
Wells.	

Absent—Excused.

Bonham.	Pearce.
Kenyon.	Powell.
Kinnear.	Reagan.
Kirby.	Tillotson.

COMMITTEE SUBSTITUTE ORDERED PRINTED.

On motion of Mr. Smyth, the committee substitute to House bill No. 323 was ordered printed instead of the original bill.

RESOLUTION WITHDRAWN.

On motion of Mr. Stevenson, by unanimous consent, House concurrent resolution No. 16 was withdrawn from further consideration by the House.

BILL RE-REFERRED.

On motion of Mr. Smith, House bill No. 364 was withdrawn from the Committee on Appropriations and referred to the Committee on State Affairs.

ACCEPTING INVITATION FROM TEXAS SCHOOL FOR DEAF.

Mr. Woodruff offered the following resolution:

Whereas, The State School for the Deaf, in Austin, Texas, has arranged a program for the entertainment and information of the members of the Fortieth Legislature and of the Texas Press Association; and

Whereas, A special invitation has been extended to said members of the Fortieth Legislature and of the Texas Press Association to visit the Texas School for the Deaf, beginning at 3:30 p. m., February 4, 1927; and

Whereas, It is to the best interest of the State and of the said school for the members of the Legislature to fully acquaint themselves with the work being done there; and

Whereas, The Superintendent and friends of the said School for the Deaf have provided automobiles for the convenience of the members of the Legislature and of the Texas Press Association to transport them to the campus of the school; therefore, be it

Resolved, That the House accept the invitation extended, as above set forth, and that the House stand adjourned at 3 p. m., February 4th, in order to allow time for the guests to go from the Capitol to the campus.

Signed—Woodruff, Ware, Jacks, Pope, Wells.

The resolution was read second time and was adopted.

COMMUNICATION FROM ATTORNEY
GENERAL IN REGARD TO
HOUSE BILL NO. 50.

On motion of Mr. Beck, the following communication from the Attorney General in regard to House bill No. 50 was ordered printed in the Journal:

State of Texas,
Office of the Attorney General.

Austin, Texas, February 2, 1927.

Hon. Walter H. Beck, House of Representatives, Capitol.

Dear Mr. Beck: You submit for the consideration of this Department House bill No. 50, which is an act to regulate motor traffic over the public highways of the State, and requiring the Railroad Commission of Texas to supervise and regulate the public services rendered by such vehicles, with the inquiry as to whether or not, under the Constitution, this duty can be imposed upon the Railroad Commission.

Section 2 of Article 10 of the Constitution of 1876 declared railroads in existence, and those thereafter constructed, to be public highways, and railroad companies common carriers. It imposed upon the Legislature the duty to pass laws to correct abuses, prevent unjust discrimination and extortion in the rates of freight and passenger tariffs, and from time to time pass laws establishing reasonable maximum rates of charges for the transportation of passengers and freight on such railroads, and enforce all such laws by adequate penalties.

While this provision of the Constitution was in effect, at each biennial session of the Legislature for many years prior to 1890 bills of various import were introduced designed to regulate railway companies in the matter of discrimination and extortion, and as to rates for the transportation of passengers and freight. For many years prior to that time, there had been a persistent endeavor to bring about by legislative act, the creation of a commission to regulate railway companies in the matter of discrimination of passenger and freight charges.

At the session of the Legislature of 1889, the discussion became very intense and at times acrimonious over the passage of an act creating a Railroad

Commission for the purpose of regulating the affairs of railway companies. In this Legislature, there were many great men, whose minds differed as to the advisability of such a law, and as to the constitutionality of it, and the press of the day contained many editorials dealing with the subject. On January 26, 1889, ex-Governor John C. Brown, President of the Texas & Pacific Railroad, delivered an argument against further railroad regulation by legislation, and against the enactment of the Railroad Commission Law. An editorial of the daily paper of the times said that he was a gentleman of distinguished ability, and handled his subject in a masterly manner, and that "he made all that it is possible for anyone to make out of his side of the question." A few days later, the Hon. A. W. Terrell spoke in favor of the Commission bill, and in answer to the argument made by Governor Brown. It was urged by those who opposed the act that such legislation would have a deterrent effect upon capital, which contemplated locating in the State, and retard railroad development.

On the 7th of February, the Hon. Thos. J. Brown, at that time a member of the House of Representatives (afterwards Justice of the Supreme Court), made the opening argument in the House of Representatives in favor of the Commission bill. His argument was directed most particularly to the constitutional feature. It is said of his argument: "As a lawyer of long experience and pronounced ability, one of the leaders of the bar of the State, his deductions are entitled to general respect, and the greatest deference." His position was that there was no prohibition in the Constitution, and that no question could arise of the right of the Legislature to pass such a law. His speech was described as a "clear-cut exposition of the reasons for the people's demand for a Railroad Commission Law." On March 2, 1889, he spoke at Sherman in favor of the bill; an interesting sidelight being that Senator McDonald from Lamar county had expressed a desire to meet him at Sherman and "roast him alive" in reply to his speech, but failed to appear.

On March 5, 1889, it is stated in the press that the bill which was demanded by the people in general, which the Democratic Party had endorsed, and which the House of Representatives had passed almost unanimously, and which the Governor had written that he would

approve, when it came to a vote in the Senate was defeated; that it was debated in this body for ten days and that able men on each side of the controversy participated in the debate.

Hon. A. W. Terrell advocated its constitutionality; Hon. O. M. Roberts expressed the opinion, through the press, that it would be unconstitutional, for the reason, and the only reason, that the Constitution imposed upon the Legislature the obligation to pass laws, fixing the maximum rate of charges for the transportation of passengers and freight and this power could not be delegated to any other body.

On March 10, 1889, the Austin Daily Statesman carried an editorial stating that the measure had been killed by the Senate, and prophesied serious discussion by the Democratic Party in the campaign of 1890, with the statement that the Senate had defeated the demands of the people for a commission that would protect them.

It is a matter of common history as to the discussions which took place in the campaign the year following. The failure to pass the law of 1889 was not because of the constitutional objection urged thereto, but was simply the success of the line of argument presented, that to place such authority in the hands of three men would retard the development of railroads, and the general advancement and prosperity of the State. The above history is not only interesting, but pertinent to the inquiry, for the reason that it is evident from it that the constitutional amendment afterwards adopted was not intended to be, and in fact was not, a limitation upon the power of the Legislature, or a mandatory injunction that any of its inherent power be exercised in any particular way. There was no specific provision in the Constitution as it existed at that time, which denied the power to the Legislature to regulate railroad rates, or the affairs of railway companies. This regulation was clearly within its police power.

In 1890, just following the stormy session of the Legislature of 1889, Article 10, Section 2, of the Constitution was amended so that it reads now as follows:

"Railroads heretofore constructed or which may hereafter be constructed in this State, are hereby declared public highways, and railroad companies common carriers. The Legislature shall pass laws to regulate railroad, freight and passenger tariffs, to correct abuses and prevent unjust discrimination and

extortion in the rates of freight and passenger tariffs on the different railroads in this State, and enforce the same by adequate penalties; and to the further accomplishment of these objects and purposes, may provide and establish all requisite means and agencies invested with such powers as may be deemed adequate and advisable. (Declared adopted December 19, 1890)."

The amendment was made an addition to the old article in the following words:

"And to the further accomplishment of these objects and purposes, may provide and establish all requisite means and agencies invested with such power as may be deemed adequate and advisable."

Under this amendment, the Railroad Commission Act was passed. It was not incumbent upon the Legislature to create the Railroad Commission as a separate and independent organization, but it had full authority to invest other officers of the government with the same powers that were granted to the Railroad Commission.

For instance: The Constitution expressly provides that the following officers mentioned therein, in addition to the duties imposed upon them by the Constitution, shall "perform such other duties as may be required by law," namely, the Secretary of State, the Attorney General, the Comptroller, the Treasurer, the Commissioner of the General Land Office, the Commissioner of Insurance, and, in fact, almost every officer whose duties are prescribed by the Constitution may be required to perform any other duty imposed by law.

Certainly under these provisions, the Legislature could have imposed upon either of these officers mentioned, or any combination of them, the duty of carrying out the provisions of any law which might be enacted to regulate railroad freight and passenger tariffs, or any other regulation of railway companies.

The fact that the agency created under the amendment of the Constitution was designated as the Railroad Commission, gives no peculiar sanctity to this agency, which would exempt it from being required to perform any other duties that the Legislature may see fit to impose upon it. Its duties are nowhere defined in the Constitution, except that it is an agency for the accomplishment of certain objects and purposes to be invested with such power as may be deemed adequate and advisable therefor.

The amendment of the Constitution was brought about by the culminating

acrimony of the debates of the Legislature of 1889, the history of which demonstrates that the will of the people had been defeated by a failure to establish by law a commission to regulate the affairs of railway companies. It was more the expression of a popular demand that a certain thing be done rather than the granting of the constitutional power to do it.

It is axiomatic that the Legislatures of the States have all power in the matter of legislation, that is not either expressly or by necessary implication denied to them by their respective constitutions. A long time ago it was definitely decided by the courts, both Federal and State, that the functions of commissions created for the purpose of regulating railroad rates and other activities, is the delegation neither of a legislative nor judicial power, and therefore not an infringement of any constitutional provision, which keeps separate and distinct the three departments of the government. Likewise it has been definitely determined that the promulgation of rules and regulations, and the decisions of commissions created for these purposes, from which appeals may be taken to the courts, do not violate the Fourteenth Amendment of the Constitution of the United States.

The State Legislature is omnipotent in the matter of passing laws, except in so far as there is some prohibition in the Constitution against it. Instead of being a grant of power to a State Legislature, the Constitution is simply a restriction and limitation made by the people of its inherent power. This being true, it cannot be held that the constitutional provision under examination is either a restriction upon the Legislature as to the kind of agency it shall create, or a requirement that any particular kind shall be created.

Therefore, that line of authority, holding that where an office is created by the Constitution, and the powers and duties of the officer are prescribed that the Legislature cannot enlarge or restrict such duties, has no application to this provision.

The exact question was before the Court of Civil Appeals in the case of the City of Denison vs. Municipal Gas Company, reported in the 257 S. W., page 616, which involved the validity of an act of the Legislature granting to the Railroad Commission the power to regulate and control gas utilities. In hold-

ing that the act was constitutional, the court said:

"A reading of the excerpt from the Constitution first above copied (which is the one under discussion) does not reveal the creation of a Railroad Commission thereby, nor the specific purpose that such commission shall be created. No careful analytical consideration of it can impart that effect. The mandate is laid upon the Legislature in this provision to regulate tariffs, correct abuses, and prevent discriminations and extortion. The explicit permission to establish means and agents with such powers as the legislative discretion may dictate to accomplish the required objects, is embodied in the last clause of the section. This, however, is neither a grant of power and authority, nor a definite command to exercise power and authority. At most, it is, in our view, a mere recognition of the police power, which already inherently rested in the Legislature; no constitutional restriction thereon having ever been imposed."

Hon. W. H. Atwell, judge of the United States District Court for the Northern District of Texas, had before him for decision the same question as here involved, except that the business to be regulated was different, in the case of Oxford Oil Company et al. vs. Atlantic Production Company. In deciding it he followed the opinion of the Court of Civil Appeals in the Denison vs. Municipal Gas Company case, holding that the Legislature had the authority under the Constitution to impose upon the Railroad Commission the duty to establish rules and regulations for the drilling of oil wells, etc.

We think the above pronouncement cannot be successfully controverted. This being true, the Legislature is not prohibited from imposing any other duties upon the commission, in addition to the regulation of railroad affairs, that it may deem advisable. In fact, the history of legislation shows that the same Legislature that created the Railroad Commission gave it full power to regulate the rates of express companies, a business radically different from that of railroads, conducted by independent organizations in a different manner, and does not come within the provision authorizing the agency established to prevent discriminations and extortion "in the rates of freight and passenger tariffs on the different railroads in this State." The power of the Legislature

to impose this duty upon the commission has never been disputed.

It is quite common in this State for the Legislature to impose upon other officers of the Constitution, whose duties are therein prescribed in great detail, many other obligations and duties. The Governor of the State, the duties of whose office are not followed in the Constitution by a general provision that the Legislature may impose others upon him, has been made the member of numerous and various boards, and likewise, the Lieutenant-Governor, the creation of whose office and the prescription of whose duties is in the same status, has had imposed upon him many additional duties to those named in the Constitution. The Secretary of State, the Attorney General, the Superintendent of Public Instruction, the Commissioner of Banking and Insurance, have each likewise had imposed upon them other duties than those prescribed in the Constitution. Except for always keeping clearly defined, the demarcation of the departments of the government, and not imposing upon the members of any department a duty that belongs to the other, it has been the policy of our Legislature, from time to time where new and additional regulations of industries, corporations and individuals are necessary, to impose upon existing officers, additional duties to avoid the expensive and disorganizing effect of the creation of new boards and institutions to enforce the law.

Wherever a restriction upon legislative power has been enforced in the matter of delegating authority to existing boards or agencies, it has been upon the fundamental proposition that it was necessary to enforce such restraint in order to accomplish the purposes of the Constitution. Certainly no such argument can prevail to defeat the power of the Legislature to impose upon an agency established primarily for the regulation of railroad freight and passenger tariffs by the railroads of the State, the further obligation and duty to supervise and regulate the public services rendered by motor bus companies engaged as common carriers of passengers over the public highways of the State. On the contrary, it seems, even if it might be conceded that the Railroad Commission is a constitutional office with duties prescribed by the Constitution, and those duties to prevent discriminations and extortions in freight and passenger tariffs and regu-

late such tariffs, that the proper regulation of the operation of and the tariff to be charged by motor bus companies, likewise engaged as common carriers in the transportation of passengers, might be a necessary incident to such constitutional duties imposed upon the Railroad Commission.

I quote from Pond on Public Utilities, Section 723:

"The proper adjustment of the service of motor vehicles operating as common carriers to that of rail and electric carriers is of the greatest importance and requires early attention and practicable and equitable solution."

And from Section 732:

"The policy of State regulation of motor vehicles, operating as common carriers, is legislative and administrative."

And from Section 754:

"The power of the State thus to regulate the use of its public thoroughfares is as fully established and generally recognized, as the police power itself, upon which it is founded."

In discussing these general principles, the Supreme Court of Utah in the case of Gilmer vs. Public Utilities Commission, 247 Pac., 284, said, in speaking of operation of motor busses over the public highways by the plaintiff in error: "In making the weekly trip he may not seriously have affected the receipts of the railroad, while, in making daily trips, he may so reduce its receipts as to make it impossible to pay the operating cost of the railroad. Its rates must thus be increased, or it must go into the hands of a receiver, while the bus line is reaping a large reward by serving territory only served by the railroad company. The railroad rates may thus have to be increased to such an extent as that those living in the sparsely settled territory can no longer afford to pay the rates, and thus development must cease altogether."

So that, instead of the imposition of the additional duties upon the Railroad Commission of the regulating of motor busses, engaged as common carriers of passengers, defeating the purposes of the Constitution, in the creation of the Railroad Commission, it can with more reasonableness be said that these purposes would be more fully carried out if both classes of public carriers were placed under the regulating hand of the same agency. The character of business to be regulated is the same. There is no inconsistency in the duties to be performed as to each. The pur-

pose of regulating one is germane to that of regulating the other.

I will not go into a discussion of that line of authority of cases involving the validity of acts creating commissions and other agencies to regulate the rates of railroads and other public service corporations on the issue as to whether the authority conferred was legislative, or judicial, for the courts of the country have long since settled this question, and established the principle that the acts of these agencies are administrative, and, therefore, within the power of the Legislature to authorize. This being true, it has for many years been definitely settled that the Legislature might create such Railroad Commission, with such powers and jurisdiction as are conferred upon it, without violating any principle of the Constitution, in so far as it might prohibit the delegation of legislative or judicial authority to any other branch of government from that in which the Constitution placed it.

I think now that it is practically universally conceded that the Legislature of Texas could have created the Railroad Commission and granted it the power and authority it now has, without the amendment of the Constitution of 1890, and that the only purpose of the amendment was to express in no uncertain terms the demand of the people in protest against action of the Legislature of 1889 in failing to create an agency to control and regulate the affairs of railroads. It was the culmination of a political situation then existing, expressing a demand of the people, which the Legislature could not indefinitely ignore. This being true, there cannot be found in the Constitution a single provision which would forbid the Legislature from taking away any power that the Railroad Commission now has, or from repealing altogether the act creating it. If it can take away power, it can add additional power, because its duties are not fixed in the Constitution, so as to make the authority conferred upon it unyielding to the pressure of existing conditions.

The Legislature could repeal the commission act and impose upon other officers of the government the duties it now performs just as it could have imposed these duties upon these officers in the beginning. The agency created for one particular purpose mentioned in the Constitution may be used as an agency to carry out any other purpose of the government.

No reasonable analogy can be drawn

from these provisions of the Constitution creating particular offices, definitely prescribing the duties of the officers, containing no general provision that other duties may be imposed upon them, nor from the constitutional provisions creating courts and defining their jurisdiction. So long as the Legislature does not impose upon this administrative body the judicial, executive or legislative functions of the government, just so long may it be omnipotent in imposing upon it other duties and responsibilities than those of regulating the transportation of freight and passengers, and the other affairs of railway companies.

We think that the provisions of Article 16, Section 30, fixing the term of office of the Railroad Commissioners, "when a Railroad Commission is created by law," does not affect the opinion we have heretofore expressed.

You are advised that it is our opinion that the duties and obligations sought to be imposed upon the Railroad Commission by House bill No. 50 may be accomplished without violating the provisions of our Constitution.

I have not examined the bill critically to determine as to whether or not there is involved any question of attempting to regulate private carriers, as was before the court in the case of *Frost vs. Railroad Commission of California*, 240 Pac., page 26, and 46 Supreme Court Reporter (U. S.) 544. Care should be taken that the principle announced in this decision of the Supreme Court be not infringed, and I will suggest, therefore, that Section 1 (c) be amended so as to contain an express provision, excluding from its terms "private carriers." This may be done by inserting a provision at the end of this section as follows:

"And holding themselves out as carriers for the public."

I regret the delay of the answer to your inquiry, but pressure of business of the department has prevented an earlier response.

Sincerely yours,
CLAUDE POLLARD,
Attorney General.

SENATE BILL NO. 4 ON THIRD READING.

The Speaker laid before the House, on its third reading and final passage, S. B. No. 4, A bill to be entitled "An Act requiring all corporations, firms, dealers and persons selling or exposing for sale, by wholesale or retail,

any goods, wares, merchandise or articles manufactured, produced or made, in whole or in part, in any penitentiary, prison, reformatory or penal institution, or by any convicts or prisoners or persons serving sentence in a reformatory, to have upon the container for such goods, wares, merchandise and articles, and upon each and every individual garment or article so manufactured, produced or made, a plain and distinct label in the English language, clearly showing in what penitentiary, prison or reformatory or penal institution such goods, wares, merchandise or articles were manufactured; and forbidding the sale of such goods, wares, merchandise or articles without such label; and imposing a penalty for selling or exposing for sale any such goods, wares, merchandise or articles without such label, and declaring an emergency."

The bill was read third time.

(Mr. Petsch in the chair.)

Mr. McCombs moved the previous question on the final passage of the bill, and the main question was ordered.

Question recurring on the final passage of the bill, yeas and nays were demanded.

Senate bill No. 4 then failed to pass by the following vote:

Yeas—46.

Albritton.	Morse.
Alexander.	Moursund.
Anderson.	Murphy.
Barnett.	Olsen.
Bateman.	Pavlica.
Beck.	Pool.
Bird.	Pope.
Brown.	Purl.
Cummings.	Sanders.
Daniel.	Shearer.
Davis.	Shirley.
Durham.	Smith of Atascosa.
Faulk.	Smith of El Paso.
Forbes.	Storey.
Fuchs.	Swain.
Holder.	Teer.
Holland.	Van Zandt.
Jacks.	Wallace of Smith.
Kemble.	Williams
Kirkland.	of Travis.
Land.	Williamson.
Loy.	Woodall.
Merritt.	Young.
Minor.	

Nays—76.

Acker.	Boggs.
Avis.	Boon.
Bass.	Conway.
Black.	Cornwell.

Cox.	Parish of Runnels.
DeBerry.	Poage.
Denman.	Porter.
Enderby.	Ramsey.
Eichenroht.	Rawlins.
Farrar.	Rogers of Hays.
Finlay.	Rogers of Shelby.
Fly.	Runge.
Foster.	Satterwhite.
Gates.	Shaver.
Gibson.	Sheats.
Graves.	Simmons.
Gray.	Sinks.
Hagaman.	Smith of Nueces.
Hall.	Smith of Smith.
Harding.	Snelgrove.
Harman.	Stell.
Hefley.	Stevenson.
Johnson.	Stout.
Justice.	Sutton.
Kennedy.	Taylor.
Kincaid.	Turner.
King of	Waddell.
Throckmorton.	Walker.
Loftin.	Wallace of Panola.
Long.	Ware.
Masterson.	Wassell.
McCombs.	Webb.
McGill.	Whitaker.
McKean.	Williams
Nabors.	of Sabine.
Nicholson.	Woodruff.

Absent.

Barron.	Montgomery.
Branch.	Moore.
Dale.	Parrish of Travis.
Dielmann.	Petsch.
Dunlap.	Renfro
Duvall.	of Angelina.
Gilbert.	Renfro of Mills.
High.	Rowell.
Hornaday.	Smyth.
Jones.	Veatch.
Kayton.	Wallace
King of Hopkins.	of Freestone.
Lipscomb.	Wells.

Absent—Excused.

Bonham.	Pearce.
Kenyon.	Powell.
Kinnear.	Reagan.
Kirby.	Tillotson.

Mr. Satterwhite moved to reconsider the vote by which the bill failed to pass and to table the motion to reconsider.

The motion to table prevailed.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—70.

Acker.	Avis.
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Beck.	McCombs.
Boon.	McGill.
Conway.	McKean.
Cornwell.	Merritt.
Cox.	Murphy.
Daniel.	Nicholson.
DeBerry.	Parish of Runnels.
Denman.	Poage.
Eickenroht.	Porter.
Farrar.	Ramsey.
Finlay.	Rogers of Hays.
Fly.	Rogers of Shelby.
Foster.	Runge.
Fuchs.	Satterwhite.
Gibson.	Shaver.
Graves.	Sheats.
Gray.	Sinks.
Hagaman.	Smith of Nueces.
Hall.	Smith of Smith.
Harman.	Snelgrove.
Hefley.	Stell.
Holland.	Stevenson.
Johnson.	Stout.
Justice.	Sutton.
Kennedy.	Taylor.
Kincaid.	Veatch.
King of Hopkins.	Waddell.
King of Throckmorton.	Walker.
Land.	Wallace of Panola.
Loftin.	Wallace of Smith.
Long.	Ware.
Masterson.	Webb.
	Woodruff.

Nays—46.

Albritton.	Nabors.
Alexander.	Olsen.
Anderson.	Pavlica.
Barnett.	Pool.
Bass.	Pope.
Bateman.	Purl.
Bird.	Rawlins.
Black.	Sanders.
Brown.	Shearer.
Cummings.	Simmons.
Davis.	Smith of Atascosa.
Durham.	Smith of El Paso.
Enderby.	Storey.
Faulk.	Swain.
Forbes.	Van Zandt.
Holder.	Wassell.
Jacks.	Wells.
Jones.	Whitaker.
Kemble.	Williams
Kirkland.	of Sabine.
Loy.	Williamson.
Minor.	Woodall.
Montgomery.	Young.
Morse.	

Absent.

Barron.	Dunlap.
Boggs.	Duvall.
Branch.	Gates.
Dale.	Gilbert.
Dielmann.	Harding.

High.	Renfro of Mills.
Hornaday.	Rowell.
Kayton.	Shirley.
Lipscomb.	Smyth.
Moore.	Teer.
Moursund.	Turner.
Parrish of Travis.	Wallace
Petsch.	of Freestone.
Renfro	Williams
of Angelina.	of Travis.

Absent—Excused.

Bonham.	Pearce.
Kenyon.	Powell.
Kinnear.	Reagan.
Kirby.	Tillotson.

(Speaker in the chair.)

BILL SIGNED BY THE SPEAKER.

The Speaker signed, in the presence of the House, after giving due notice thereof, and its caption had been read, the following enrolled bill:

S. B. No. 115, "An Act to repeal Articles 357, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 464, 466, 470, 475, 475a, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488 and 489, Revised Civil Statutes of the State of Texas adopted at the Regular Session of the Thirty-ninth Legislature, providing that bonds executed and securities deposited by State banks before the passage of this act, under the statutes hereby repealed, as members of the Bond Security System, shall not be affected by this repeal until the lapse of one year from the time of the approval of said bond by or deposit of said certificate with the Banking Commissioner, under existing statutes, etc., and declaring an emergency."

RECESS.

Mr. Stevenson moved that the House recess to 2:30 o'clock p. m. today.

Mr. Shirley moved that the House recess to 2 o'clock p. m. today.

Mr. Holland moved that the House recess to 3 o'clock p. m. today.

The motion of Mr. Stevenson prevailed, and the House, accordingly, at 12 o'clock m., took recess to 2:30 o'clock p. m. today.

AFTERNOON SESSION.

The House met at 2:30 o'clock p. m., and was called to order by the Speaker.

MESSAGE FROM THE SENATE.

Senate Chamber,

Austin, Texas, February 3, 1927.

Hon. Robert Lee Bobbitt, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed

S. B. No. 104, A bill to be entitled "An Act to amend Chapter 6, of Title 37, Revised Civil Statutes of 1925, by repealing Article 1769 and amending and re-enacting Article 1771, relating to the disposition of cases in the Supreme Court."

S. B. No. 126, A bill to be entitled "An Act to make effective the provisions of Section 5, Article 5, of the Constitution of the State of Texas, wherein it is declared that under such regulations as many be prescribed by law, the Court of Criminal Appeals and the judges thereof may issue such writs as may be necessary to enforce the jurisdiction of said court, and to empower said court and the judges thereof to issue writs of mandamus and certiorari, and to enforce obedience thereof, and declaring an emergency."

S. B. No. 138, A bill to be entitled "An Act amending Article 5142 of the Revised Civil Statutes, providing for juvenile officers, etc., and declaring an emergency."

Respectfully,

MORRIS C. HANKINS,

Assistant Secretary of the Senate.

COMMITTEE TO INVESTIGATE
BRIBERY CHARGE.

In compliance with a resolution adopted by the House of Representatives, February 3, 1927, the Speaker announced the appointment of the following committee:

Messrs. Sinks, Chairman; Fly, Barron, Veatch, Rawlins, Holder, Minor, Petsch and Stout.

SENATE BILL NO. 17 ON THIRD
READING.

The Speaker laid before the House, on its third reading and final passage, S. B. No. 17, A bill to be entitled "An Act to amend Article 1302, Chapter 1, Title 32, of the Revised Civil Statutes of the State of Texas of 1925, relating to the purposes for which private corporations may be formed, by adding thereto a section to be known as Section 89, so as to provide that corpora-

tions may be formed for the purpose of engaging in the poultry business and to buy and sell poultry of all kinds with the right to acquire and own all property necessary to conduct such business, and declaring an emergency."

The bill was read third time.

Mr. Satterwhite offered the following amendments to the bill:

Amend Senate bill No. 17 by adding between lines 36 and 37, page 1, the following: "Section 90. Private corporations may be formed for the purpose of engaging in the business of operating, conducting and maintaining a cafeteria or cafeterias, with authority to own, lease and operate all plants, equipment and facilities necessary, incident or pertaining thereto. The right to operate shall not conflict with any ordinance of any incorporated city or town in which such business shall be operated."

Amend Senate bill No. 17 by adding a semicolon after word "business" in line 26, page 1, and striking out the words "and declaring an emergency," and insert the following: "Providing for the formation of private corporations for the purpose of engaging in the business of operating, conducting and maintaining a cafeteria or cafeterias, with authority to own, lease and operate all plants, equipment and facilities necessary, incident or pertaining thereto, and declaring an emergency."

By inserting between the words "business" and "creates," line 1, page 2, the following: "And the further fact that no provision is made for incorporated cafeterias."

The amendments were severally adopted.

Senate bill No. 17 was then finally passed by the following vote:

Yeas—110.

Mr. Speaker.
Acker.
Albritton.
Alexander.
Anderson.
Barnett.
Barron.
Bass.
Bateman.
Beck.
Bird.
Black.
Boggs.
Boon.
Brown.
Conway.
Cornwell.
Cox.

Daniel.
Davis.
DeBerry.
Dielmann.
Eickenroht.
Enderby.
Farrar.
Faulk.
Finlay.
Fly.
Forbes.
Fuchs.
Gibson.
Graves.
Gray.
Hagaman.
Hall.
Harding.

Hefley.	Rowell.
High.	Sanders.
Holland.	Satterwhite.
Jacks.	Shaver.
Johnson.	Shearer.
Jones.	Sheats.
Justice.	Shirley.
Kemble.	Simmons.
Kennedy.	Smith of El Paso.
Kenyon.	Smith of Smith.
Kincaid.	Smyth.
King of Hopkins.	Snelgrove.
King of	Stell.
Throckmorton.	Stevenson.
Kirkland.	Storey.
Land.	Stout.
Loftin.	Sutton.
Long.	Swain.
Loy.	Taylor.
Masterson.	Teer.
McGill.	Turner.
McKean.	Van Zandt.
Merritt.	Waddell.
Minor.	Walker.
Montgomery.	Wallace
Morse.	of Freestone.
Murphy.	Wallace of Panola.
Nabors.	Wallace of Smith.
Nicholson.	Ware.
Parish of Runnels.	Wassell.
Pavlica.	Webb.
Poage.	Whitaker.
Porter.	Williams
Ramsey.	of Sabine.
Rawlins.	Williams
Renfro	of Travis.
of Angelina.	Woodall.
Renfro of Mills.	Woodruff.
Rogers of Hays.	Young.
Rogers of Shelby.	

Absent.

Avis.	Moore.
Branch.	Moursund.
Cummings.	Olsen.
Dale.	Parrish of Travis.
Denman.	Petsch.
Dunlap.	Pool.
Durham.	Pope.
Duvall.	Purl.
Gates.	Runge.
Gilbert.	Sinks.
Harman.	Smith of Atascosa.
Holder.	Smith of Nueces.
Hornaday.	Veatch.
Kayton.	Wells.
Lipscomb.	Williamson.
McCombs.	

Absent—Excused.

Bonham.	Pearce.
Foster.	Powell.
Kinnear.	Reagan.
Kirby.	Tillotson.

SENATE BILL NO. 28 ON THIRD READING.

The Speaker laid before the House, on its third reading and final passage, S. B. No. 28, A bill to be entitled "An Act amending Section 1 of an act passed by the Thirty-ninth Legislature of Texas, and being Chapter 87 of the Acts of the Regular Session of the Thirty-ninth Legislature, constituting and organizing Courts of Civil Appeals therein; creating the Twelfth Supreme Judicial District of Texas, with Wichita Falls as the site of said court; providing for the appointment and qualification of the judges of said Twelfth Supreme Judicial District and other officers thereof; providing for the transfer of cases and regulating appeals from the lower courts of the counties constituting said Twelfth Supreme Judicial District of Texas; making appropriation for the support of said court, and declaring an emergency."

The bill was read third time.

Mr. Daniel offered the following amendments to the bill:

Amend Senate bill No. 28 by inserting in caption in line 18 after the word "amending" and before the word "section" the following: "Article one hundred ninety-eight (198) of the Revised Civil Statutes of Texas for 1925, same being."

Amend Senate bill No. 28 by inserting in Section 1, in line 31, after the word "that" and before the word "section" the following: "Article one hundred ninety-eight (198) of the Revised Civil Statutes of Texas for 1925, same being."

The amendments were severally adopted.

Senate bill No. 28 was when finally passed by the following vote:

Yeas—85.

Mr. Speaker.	Enderby.
Anderson.	Faulk.
Avis.	Forbes.
Barron.	Graves.
Bass.	Gray.
Beck.	Hagaman.
Black.	Harding.
Boggs.	Hefley.
Brown.	Holland.
Conway.	Jacks.
Cox.	Johnson.
Cummings.	Jones.
Daniel.	Kayton.
Dielmann.	King of Hopkins.
Dunlap.	King of
Duvall.	Throckmorton.

Land.	Shirley.
Loftin.	Simmons.
Masterson.	Smith of El Paso.
McGill.	Smith of Nueces.
Merritt.	Smith of Smith.
Minor.	Smyth.
Montgomery.	Stevenson.
Morse.	Storey.
Murphy.	Sutton.
Parish of Runnels.	Swain.
Parrish of Travis.	Teer.
Pavlica.	Turner.
Poage.	Van Zandt.
Pool.	Waddell.
Pope.	Walker.
Porter.	Ware.
Purl.	Wassell.
Renfro	Webb.
of Angelina.	Wells.
Rogers of Hays.	Whitaker.
Rogers of Shelby.	Williams
Rowell.	of Sabine.
Runge.	Williams
Sanders.	of Travis.
Satterwhite.	Williamson.
Shaver.	Woodall.
Shearer.	Woodruff.
Sheats.	Young.

Nays—32.

Acker.	Long.
Albritton.	Loy.
Alexander.	McKean.
Barnett.	Moursund.
Boon.	Nabors.
Cornwell.	Nicholson.
Davis.	Olsen.
Durham.	Petsch.
Finlay.	Ramsey.
Fly.	Rawlins.
Gibson.	Snelgrove.
High.	Taylor.
Holder.	Wallace
Justice.	of Freestone.
Kennedy.	Wallace of Panola.
Kincaid.	Wallace of Smith.
Kirkland.	

Present—Not Voting.

Bird.	Stell.
DeBerry.	Stout.

Absent.

Bateman.	Hornaday.
Branch.	Kemble.
Dale.	Kenyon.
Denman.	Lipscomb.
Eickenroht.	McCombs.
Farrar.	Moore.
Fuchs.	Renfro of Mills.
Gates.	Sinks.
Gilbert.	Smith of Atascosa.
Hall.	Veatch.
Harman.	

Absent—Excused.

Bonham.	Foster.
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Kinnear.	Powell.
Kirby.	Reagan.
Pearce.	Tillotson.

RELATING TO HOUSE BILL NO. 69.

Mr. Sanders asked unanimous consent of the House that House bill No. 69 be withdrawn from further consideration of the House.

The Chair stated that there was objection offered.

SENATE BILL NO. 29 ON THIRD READING.

The Speaker laid before the House, on its third reading and final passage,

S. B. No. 29, A bill to be entitled "An Act to amend Article 7949 of the Revised Civil Statutes of Texas of 1925, relating to the appointment of notaries public."

The bill was read third time and was passed by the following vote:

Yeas—105.

Mr. Speaker.	Justice.
Albritton.	Kemble.
Alexander.	Kennedy.
Anderson.	Kincaid.
Avis.	King of Hopkins.
Barnett.	Land.
Barron.	Long.
Bass.	Loy.
Bird.	Masterson.
Black.	McGill.
Boggs.	McKean.
Boon.	Minor.
Brown.	Montgomery.
Conway.	Morse.
Cornwell.	Moursund.
Cox.	Murphy.
Cummings.	Nabors.
Davis.	Olsen.
DeBerry.	Parish of Runnels.
Denman.	Pavlica.
Durham.	Poage.
Eickenroht.	Pool.
Enderby.	Pope.
Farrar.	Porter.
Faulk.	Purl.
Finlay.	Ramsey.
Forbes.	Rawlins.
Fuchs.	Renfro
Gibson.	of Angelina.
Graves.	Renfro of Mills.
Gray.	Rogers of Hays.
Hagaman.	Rogers of Shelby.
Harding.	Rowell.
High.	Sanders.
Holder.	Shaver.
Holland.	Shearer.
Hornaday.	Sheats.
Jacks.	Shirley.
Johnson.	Simmons.

Smith of El Paso.	Walker.
Smith of Nueces.	Wallace
Smith of Smith.	of Freestone.
Smyth.	Wallace of Panola.
Stell.	Ware.
Storey.	Wassell.
Stout.	Webb.
Sutton.	Whitaker.
Swain.	Williams
Taylor.	of Sabine.
Teer.	Williams
Turner.	of Travis.
Van Zandt.	Woodall.
Veatch.	Woodruff.
Waddell.	Young.

Nays—7.

Acker.	Kirkland.
Dielmann.	Merritt.
Hefley.	Snelgrove.
King of	
Throckmorton.	

Present—Not Voting.

Daniel.

Absent.

Bateman.	Loftin.
Beck.	McCombs.
Branch.	Moore.
Dale.	Nicholson.
Dunlap.	Parrish of Travis.
Duvall.	Petsch.
Fly.	Runge.
Gates.	Satterwhite.
Gilbert.	Sinks.
Hall.	Smith of Atascosa.
Harman.	Stevenson.
Jones.	Wallace of Smith.
Kayton.	Wells.
Kenyon.	Williamson.
Lipscomb.	

Absent—Excused.

Bonham.	Pearce.
Foster.	Powell.
Kinnear.	Reagan.
Kirby.	Tillotson.

SENATE BILL NO. 18 ON SECOND READING.

The Speaker laid before the House, on its second reading and passage to third reading,

S. B. No. 18, A bill to be entitled "An Act to create a commission in aid of the Court of Criminal Appeals of Texas, regulating their powers and duties, appointment, duration of service, compensation and providing for stenographer, and making an appropriation therefor, and declaring an emergency."

The bill was read second time and was passed to third reading.

RESOLUTION SIGNED BY THE SPEAKER.

The Speaker signed, in the presence of the House, after giving due notice thereof, and its caption had been read, the following enrolled resolution:

H. C. R. No. 13, Instructing the acceptance of the Purnell Fund.

SENATE BILL NO. 55 ON SECOND READING.

The Speaker laid before the House, on its second reading and passage to third reading,

S. B. No. 55, A bill to be entitled "An Act amending Sections 7, 10 and 29, of Chapter 172, of the General Laws of the Regular Session of the Thirty-ninth Legislature, so as to better provide for protection of game, and providing in a more adequate manner for limits of game or wild birds and animals that may be taken, killed or possessed; providing for hunting licenses in this State; enacting proper provisions for the protection of wild female deer, wild fawn deer and wild buck deer; defining the necessary offenses and prescribing penalties to carry out the provisions of this act; providing for proper fees of officers and all things incidental to the main purposes of this act, and declaring an emergency."

The bill was read second time.

Mr. Wells offered the following (committee) amendment to the bill:

Strike out the words "within the county of his residence" on the end of the last sentence in Section 29, and substitute therefor the following: "No matter where said land is situated, and provided further, that actual bona fide tenants for agricultural or grazing purposes shall have the right to hunt on the lands they have rented during the term of their tenancy, and provided further, that non-residents shall be required to pay the license under all conditions."

(Mr. Barron in the chair.)

Mr. Parish of Runnels offered the following substitute for the amendment:

Amend Senate bill No. 55, page 3, Section 29, by striking out all after the words and figures "Section 29," line 1, to and including the word "residence" in line 9, and in lieu thereof insert the following: "No resident citizen of Texas shall hunt any of the game animals or game birds as defined in this act with a gun without first having procured from the Game, Fish and Oyster Commissioner, or one

of his deputies, or from any county clerk in this State, a hunting license of one of the classes as provided in this article: (a) county hunting license, which shall authorize the person procuring said license to hunt in the county of his residence, for which license he shall pay a fee of one dollar; (b) State hunting license, which shall authorize said person procuring said license to hunt in any county in this State, including the county of his residence, for which license he shall pay a fee of two dollars. The officer issuing said license shall retain fifteen cents as his fee for collecting, issuing and making reports on same; provided a resident citizen of this State shall not be required to procure a license to hunt on his own lands or lands rented or leased for agricultural or grazing purposes in any county in this State."

Mr. Kemble moved the previous question on the pending amendment and the substitute, and the main question was ordered.

(Speaker in the chair.)

The substitute amendment was adopted.

Question then recurring on the amendment as substituted, it was adopted.

Mr. Runge offered the following amendment to the bill:

Amend Senate bill No. 55, page 2, Section 10, by striking out all after the phrase "wild buck deer" in line 34 and all in line 35 to the word "no." and insert in lieu thereof the following: "Without a pronged horn."

Question—Shall the amendment be adopted?

CHANGES IN STANDING COMMITTEES MADE.

The following changes were made in the standing committees:

Mr. Walker was added to the Committee on Criminal Jurisprudence.

Mr. Loy was added to the Committee on Common Carriers.

BILL RECOMMITTED.

On motion of Mr. Williamson, by unanimous consent, House bill No. 194 was recommitted to the Committee on Highways and Motor Traffic.

COMMITTEE AMENDMENT ORDERED PRINTED.

On motion of Mr. Harman, by unanimous consent, the committee substitute to House bill No. 8 was ordered printed instead of the original bill.

ADJOURNMENT.

On motion of Mr. Stevenson, the House, at 4:15 o'clock p. m., adjourned until 10 o'clock a. m., Friday, February 4.

APPENDIX.

STANDING COMMITTEE REPORTS.

The following standing committees have today filed favorable reports on bills as follows:

Highways and Motor Traffic: House bills Nos. 379, 326.

Education: House bills Nos. 266, 241.

Privileges, Suffrage and Elections: House bill No. 86; Senate bill No. 58.

Criminal Jurisprudence: House bills Nos. 287, 286.

Judiciary: Senate bill No. 25.

Revenue and Taxation: House bill No. 9.

Appropriations: Senate bills Nos. 234, 173.

The following standing committees have today filed adverse reports on bills as follows:

Insurance: House bills Nos. 151, 152.

Constitutional Amendments: House Joint Resolutions Nos. 19, 10, 9, 8, 6.

Military Affairs: House bill No. 323.

Revenue and Taxation: House bill No. 135.

Highways and Motor Traffic: House bills Nos. 326, 379, 194.

Education: House bill No. 5.

REPORTS OF THE COMMITTEE ON ENGROSSED BILLS.

Committee Room,

Austin, Texas, February 3, 1927.

Hon. Robert Lee Bobbitt, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 50, A bill to be entitled "An Act to regulate motor propelled passenger vehicles not usually operated on or over rails and engaged regularly in the business of transporting passengers for compensation for hire over the public highways of the State; defining motor bus companies and declaring them to be common carriers; excepting motor bus companies operating wholly within an incorporated town or city and suburbs thereof; defining the terms 'corporation,' 'person,' 'public highway,' 'High-

way Commission' and 'Commission'; providing for the issuance of certificates of convenience and necessity to motor bus companies, and prescribing the conditions upon which such certificate may be issued; requiring the Railroad Commission of Texas to supervise and regulate the public service rendered by every motor bus company; to fix or approve maximum and minimum fares, rates or charges; to prescribe all rules and regulations necessary for the government of motor bus companies, etc.,."

Have carefully compared same and find it correctly engrossed.

TAYLOR, Chairman.

Committee Room,
Austin, Texas, February 3, 1927.

Hon. Robert Lee Bobbitt, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 169, A bill to be entitled "An Act to amend Title 8, Article 199, Section 1, Subdivision 23, page 96, of the Regular Session of the Thirty-ninth Legislature of the State of Texas, changing the time of holding of the terms of district court in the Twenty-third Judicial District of Texas, and declaring an emergency,"

Have carefully compared same and find it correctly engrossed.

TAYLOR, Chairman.

Committee Room,
Austin, Texas, February 3, 1927.

Hon. Robert Lee Bobbitt, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 20, A bill to be entitled "An Act to prevent fraud, misrepresentation or unfair practices in the sale of merchandise or other property by means of a plan commonly known as the 'endless chain', imposing an occupation tax, fixing penalty, and declaring an emergency,"

Have carefully compared same and find it correctly engrossed.

TAYLOR, Chairman.

REPORT OF THE COMMITTEE ON ENROLLED BILLS.

Committee Room,
Austin, Texas, February 3, 1927.

Hon. Robert Lee Bobbitt, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 13, Instructing acceptance of the Purnell Fund,

Have carefully compared same and find it correctly enrolled.

MORSE, Chairman.

EIGHTEENTH DAY.

(Friday, February 4, 1927.)

The House met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Bobbitt.

The roll was called, and the following members were present:

Acker.	King of Hopkins.
Alexander.	King of
Barnett.	Throckmorton.
Barron.	Kirkland.
Bass.	Land.
Beck.	Lipscomb.
Bird.	Loftin.
Black.	Long.
Boggs.	Loy.
Boon.	Masterson.
Brown.	McCombs.
Cornwell.	McGill.
Cox.	McKean.
Cummings.	Merritt.
Daniel.	Minor.
Davis.	Montgomery.
DeBerry.	Morse.
Denman.	Moursund.
Dunlap.	Murphy.
Durham.	Nabors.
Duvall.	Nicholson.
Eickenroht.	Olsen.
Enderby.	Parish of Runnels.
Farrar.	Parrish of Travis.
Faulk.	Pavlica.
Finlay.	Petsch.
Fly.	Poage.
Forbes.	Pool.
Foster.	Pope.
Fuchs.	Porter.
Gates.	Purl.
Gibson.	Ramsey.
Gilbert.	Rawlins.
Graves.	Renfro
Gray.	of Angelina.
Hagaman.	Renfro of Mills.
Hall.	Rogers of Hays.
Harding.	Rogers of Shelby.
Harman.	Rowell.
Hefley.	Runge.
High.	Sanders.
Holder.	Satterwhite.
Holland.	Shaver.
Hornaday.	Shearer.
Jacks.	Sheats.
Jones.	Shirley.
Justice.	Simmons.
Kemble.	Sinks.
Kennedy.	Smith of El Paso.
Kincaid.	Smith of Nueces.